

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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VIACOM INTERNATIONAL, INC., COMEDY
PARTNERS, COUNTRY MUSIC
TELEVISION, INC., PARAMOUNT
PICTURES CORPORATION, and BLACK
ENTERTAINMENT TELEVISION, LLC,

Plaintiffs,

vs.

No. 07-CV-2103

YOUTUBE, INC., YOUTUBE, LLC,
and GOOGLE, INC.,

Defendants.

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HIGHLY CONFIDENTIAL

VIDEOTAPED DEPOSITION OF
NICHOLAS SEET/AUDITUDE, INC.
SAN FRANCISCO, CALIFORNIA
TUESDAY, NOVEMBER 24, 2009

JOB NO. 18254

1 Nicholas Seet San Francisco, CA November 24, 2009
2 09:24:09 to that we did broadcast-based music identification,
3 09:24:16 and that turned into broadcast television and radio
4 09:24:21 ad tracking technology.

5 09:24:25 And then we changed our business model in
6 09:24:28 2006 to focus on online media.

7 09:24:38 Q. Okay. So -- so when -- when was the
8 09:24:41 company actually incorporated?

9 09:24:43 A. In 2006.

10 09:24:46 Q. And how -- how many employees did Auditude
11 09:24:49 have at the time that it opened for business in
12 09:24:51 2006?

13 09:24:56 MR. PLATZER: Object to the form.

14 09:24:57 MR. WILLEN: Excuse me.

15 09:24:59 MR. CARDON: So this is -- Mr. Platzer is
16 09:25:01 just making an objection for the record. So you can
17 09:25:04 go ahead and answer it.

18 09:25:05 BY MR. WILLEN:

19 09:25:06 Q. If you -- if you understand my question,
20 09:25:08 you can answer it.

21 09:25:09 A. Less than five.

22 09:25:10 Q. Okay. So at the time that the company was
23 09:25:13 incorporated in 2006, what would you say was the --
24 09:25:16 the primary business model at that time?

25 09:25:19 A. Tracking ads on TV and radio.

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2 09:25:23 Q. Can you just describe briefly how that --

3 09:25:26 how that business model works?

4 09:25:30 A. We have a -- a nation-wide system of

5 09:25:36 broadcast fingerprinters that would fingerprint

6 09:25:44 television and radio signal, and we would be

7 09:25:48 provided with media from advertisers and agencies to

8 09:25:52 look for in that broadcast fingerprint.

9 09:25:56 So essentially we were tracking ads on TV

10 09:25:59 and radio, and we could tell the advertiser or the

11 09:26:02 agency exactly when and where their ads played,

12 09:26:06 which was previously not something that -- that

13 09:26:09 either they were not doing it, or they were doing it

14 09:26:13 by hand, manually going through and listening and

15 09:26:17 watching television, which was obviously not very

16 09:26:19 accurate, and -- and quite labor-intensive.

17 09:26:23 Q. And -- and that business was based on an

18 09:26:27 audio fingerprint technology that Auditude had

19 09:26:31 developed?

20 09:26:32 A. That is correct.

21 09:26:32 Q. And was it you who developed that

22 09:26:34 technology?

23 09:26:35 A. I was the CEO at the time that technology

24 09:26:38 was developed, but I wasn't personally the -- the

25 09:26:40 author of the technology.

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2 09:26:42 Q. Who -- who was the actual author of the
3 09:26:44 technology?

4 09:26:45 A. We have a chief scientist named Sergiy
5 09:26:52 Bilobrov who is the -- as we say -- the rocket
6 09:26:57 scientist who developed the technology.

7 09:27:00 Q. At a high level of generality, can you
8 09:27:02 describe for me what the technology actually is?

9 09:27:05 A. Certainly --

10 09:27:06 MR. CARDON: And -- and I'll object. It's
11 09:27:07 vague as to time.

12 09:27:08 MR. WILLEN: Sure.

13 09:27:08 BY MR. WILLEN:

14 09:27:08 Q. In 2006, the time that the company was
15 09:27:12 incorporated.

16 09:27:12 A. Right. So digital fingerprinting is an
17 09:27:19 area of audio science or video or media science, I
18 09:27:22 would say, that extracts a set of key frequency
19 09:27:28 characteristics from the signal, and assembles
20 09:27:35 those -- extracts from those key frequency
21 09:27:39 characteristics, or compiles them into a signature,
22 09:27:42 as it were, a digital fingerprint.

23 09:27:46 This fingerprint can then be utilized to
24 09:27:49 find that same signature in media, even if it has
25 09:27:53 been highly altered, distorted, compressed.

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2 09:28:00 The key to a good fingerprinting system is

3 09:28:05 being very accurate, very robust to noise and

4 09:28:11 distortions, and very fast.

5 09:28:16 Q. So in -- at the time the company opened,

6 09:28:20 was the fingerprinting technology that Auditude had

7 09:28:23 developed being used for anything else other than

8 09:28:25 what you described as tracking advertisements on

9 09:28:29 broadcast media?

10 09:28:30 A. At -- at what time?

11 09:28:31 Q. Yeah, 2006, the company -- when the

12 09:28:34 company was founded.

13 09:28:36 A. We were doing ad tracking, but we were

14 09:28:41 also doing music identification, based on radio air

15 09:28:47 play.

16 09:28:48 Q. Okay. Were you -- were you also doing

17 09:28:51 Internet content monitoring at that time?

18 09:28:53 A. Not at -- not at that time, no.

19 09:28:56 Q. Okay. But -- but I think you testified

20 09:28:58 earlier that there -- there came a time when

21 09:29:00 Auditude started getting in the business of Internet

22 09:29:03 content monitoring?

23 09:29:04 A. That is correct.

24 09:29:05 Q. Now, when was the first time that Auditude

25 09:29:08 had the idea of shifting its business to focus on

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2 10:45:06 A. Yes.

3 10:45:07 Q. So was there a specific discussion that
4 10:45:09 you recall about using Auditudo to monetize Viacom
5 10:45:16 content on YouTube?

6 10:45:18 A. Not specifically on YouTube. It was a
7 10:45:20 general statement that they were interested in that
8 10:45:23 data for monetization, amongst other things.

9 10:45:26 Q. And what were the other things, in
10 10:45:28 addition to monetization, that Viacom was
11 10:45:30 interested?

12 10:45:32 A. I would be assuming that copyright
13 10:45:37 enforcement was one of them, and that may have been
14 10:45:40 mentioned at that meeting. I don't recall,
15 10:45:44 specifically.

16 10:45:46 Q. Did Viacom, in -- in those meetings that
17 10:45:49 you had, ever tell Auditudo that it was important to
18 10:45:52 Viacom that Auditudo develop a video-based
19 10:45:57 fingerprinting technology, in addition to its
20 10:45:59 audio-based fingerprinting technology?

21 10:46:03 A. In the initial meetings, no.

22 10:46:05 Q. In any subsequent meetings?

23 10:46:09 A. Yes. The subsequent meetings pointed out
24 10:46:12 that having video fingerprinting would make the
25 10:46:20 manual review process of the detections much more

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2 10:46:24 efficient.

3 10:46:26 So, in other words, video fingerprinting

4 10:46:30 was looked at as a significant time saver for the

5 10:46:35 manual review process of the Auditudo results.

6 10:46:38 Q. And why was that?

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14 10:48:39 Q. All right. So Viacom and Auditude
15 10:48:42 ultimately signed a contract for Viacom to use
16 10:48:45 Auditude's CopyID tool?

17 10:48:48 A. That's correct.

18 10:48:53 MR. WILLEN: Okay. Let's actually
19 10:48:55 introduce that agreement, so we can all be on the
20 10:48:59 same page. This will be Exhibit --

21 10:49:03 THE REPORTER: 7.

22 10:49:04 MR. WILLEN: Exhibit 7.

23 10:49:04 (Deposition Exhibit Number 7 was marked
24 10:49:04 for identification.)
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